UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/531,951	03/21/2000	Craig Douglas Voisin	57921/105	7500

7590	10/27/2003

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EXAMINER
DURAN, ARTHUR D

ART UNIT	PAPER NUMBER
3622	

DATE MAILED: 10/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application N .		Applicant(s)	
Office Action Summary	09/531,951		VOISIN ET AL.	
	Examiner		**Art Unit**	
	Arthur Duran		3622	

-- Th MAILING DATE of this communication appears on the cover sh et with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>23 September 2003</u> .

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-51</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-51</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____ .

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)   4)☐ Interview Summary (PTO-413) Paper No(s). _____ .

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)   5)☐ Notice of Informal Patent Application (PTO-152)

3)☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .   6)☐ Other: .

DETAILED ACTION

1.   Claims 1-51 have been examined.

Continued Examination Under 37 CFR 1.114

2.   A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR

1.17(e), was filed in this application after final rejection. Since this application is eligible for continued

examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the

finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's

submission filed on 9/23/03 has been entered.

Response to Amendment

3.   The Amendment filed on 9/23/03 is sufficient to overcome the Gerace and Lumelsky

reference.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

4.   Claims 1-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerace

(5,848,396) in view of Lumelsky (6,246,672) and in further view of Lowe (6,298,218).

Claims 1, 16, 22: Gerace discloses maintaining an Internet-related communication
session between a user and a portal (col 4, lines 1-5) and during the communication session
periodically selecting and playing advertisements automatically based on any one of user
constraints and sales criteria (col 2, lines 35-42; col 5, lines 8-25).

Gerace discloses tracking all aspects of user navigation of a portal (col 2, lines 15-42).
Gerace discloses the use of sound (col 1, lines 30-35), audio forecasts (col 8, lines 63-65; col 25,
lines 15-18), and other sound and audio applications as referenced above. Gerace further
discloses tracking the audio capabilities of a user's system (col 6, lines 17-21). Gerace further
discloses the use of a variety of input means (col 4, lines 6-11), and that the method can be
operated anywhere the Internet accessible (col 3, lines 54-58). Gerace further discloses the
utilization and providing of television and radio broadcasts (col 36, lines 50-54; col 16, lines 55-
60).

Gerace does not explicitly disclose the utilization of voice navigation.

However, Lumelsky discloses a wireless system that provides voice or audio broadcasts
of all types, that is voice activated, voice controlled, voice navigated, features hands free
operation, hands free user voice recording, and user voice message delivering to other users, and
voice navigation access to Internet files from Web sites (col 5, line 50-col 6, line 5; Abstract).

Lumelsky further disclose creating a user profile and updating that profile with topics of
user interest (col 20, lines 6-24; col 8, lines 50-55).

Therefore, it would have been obvious to one having ordinary skill in the art at the time
the invention was made to add Lumelsky's voice navigation to Gerace's targeted content over

the Internet. One would have been motivated to do this because hands free voice input and

navigation allows Gerace's method to reach a wider spectrum of possible uses.

Gerace further discloses selectively playing advertisements (col 2, lines 24-30) and

playing advertisements depending upon the user's system (col 5, lines 19-25; col 6, lines 13-21)

and playing the advertisement deemed of highest interest to the user (col 15, lines 25-45) and the

advertiser paying for advertisements in different scales depending upon the receptions or actions

taken upon an advertisement (col 12, lines 17-21).

Gerace does not explicitly disclose selectively disabling a user's ability to stop or

interrupt an advertisement from being played depending upon the advertisement being played.

Lowe discloses selectively disabling a user's ability to stop or interrupt an advertisement

from being played (col 3, lines 40-60; col 12, lines 25-61; col 7, lines 41-50) depending upon a

variety of controllable input or advertising related information or information related to the

advertisement being played (col 12, lines 55-59; col 12, lines 25-29; Fig. 1, item 111). Lowe

further discloses recording which advertisements the user has seen (col 3, lines 47-50) and

targeting the user for content including advertising and that a captive audience can be provided

(col 2, lines 34-45; col 6, lines 15-23). Lowe further discloses targeted advertisements and

targeted content depending upon the reference information about a user (col 4, lines 15-24) and

different types of advertisements (col 5, lines 50-60). Lowe discloses the utilization of voice

data for controlling an information system and the receiving of information including audio or

video and advertisements particular to a user (col 9, lines 5-20).

Therefore, because Lowe discloses a lock out unit that can receive a variety of input and

Lowe discloses targeting the users with a variety of advertising and Lowe discloses that the lock

out unit can be activated or deactivated based on a variety of input and advertising related information, it would have been obvious to Lowe that the lock out unit can be activated based upon the advertising being played. Lowe would have been motivated to do this because some advertisements may be deemed more important for the user to hear or receive.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Lowe's selectively disabling a user's ability to stop an advertisement to Gerace's selectively playing advertisements and playing the advertisements deemed of highest interest to the user. One would have been motivated to do this because some advertisements may be deemed more important for the user to hear or receive.

Claims 2, 23: Gerace, Lumelsky, and Lowe disclose a method as in claims 1, 22, and Gerace further discloses playing an audio message identifying a product or service to be advertised, including a query as to whether the user would like to hear more information regarding the product or service, identifying a response of the user (col 2, lines 35-42; col 3, lines 4-10; col 8, lines 63-65; col 25, lines 15-17), selectively playing an audio advertisement for the product or service, if the response was affirmative (col 2, lines 40-42).

Claims 3 and 24: Gerace, Lumelsky, and Lowe disclose a method and means as in claim 2 and 23, and Gerace further discloses that the step of playing an audio message is in response to a previous user selection (col 2, lines 35-42).

Claims 4 and 25: Gerace, Lumelsky, and Lowe disclose a method and means as in claims 2 and 23, and Gerace further discloses the step of playing and audio message comprises identifying a preference of the user and selecting an advertisement for a product of service which corresponds to the preference of the user (col 5, lines 15-25).

Claims 5, 18, and 26: Gerace, Lumelsky, and Lowe disclose a method and means as in claims 4, 16, and 24, and Gerace further discloses identifying the user and retrieving preference information corresponding to the user, the preference information being stored in a database, and the advertisements played (col 5, lines 15-25).

Claims 6 and 27: Gerace, Lumelsky, and Lowe disclose a method as in claims 2 and 23. Gerace further discloses a wide variety of input means (col 38, lines 25-27). Gerace further discloses the user of audio and radio broadcasts (col 3, lines 4-10; col 8, lines 63-65; col 25, lines 15-17). Gerace further discloses making the use of the invention more appealing to the user (col 2, lines 47-54).

Gerace does not explicitly disclose the step of identifying a response of the user comprising applying voice recognition techniques. However, Lumelsky discloses step of identifying a response of the user comprising applying voice recognition techniques (col 12, lines 10-13).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Lumelsky's voice recognition to Gerace's targeted advertising. One would have been motivated to do this because voice recognition is a standard method of user input and allows Gerace's user's further convenience.

Claims 7, 9, 20, 44: Gerace, Lumelsky, and Lowe disclose a method as in claims 2, 8, 16, 42, and Gerace further discloses the step of selectively playing an audio advertisement which comprises defining a set of advertisements, assigning weights to each member of the set of advertisements, and selecting a member of the set of advertisements based on the assigned weight (col 14, line 65-col 15, line 12).

Claims 8, 21, 28: Gerace, Lumelsky, and Lowe disclose a method as in claims 7, 16, and 23, and Gerace further discloses that wherein the step of assigning weights to each member of the set of advertisements comprises prioritizing each member of the set of advertisements (col 14, line 65-col 15, line 12).

Claim 13: Gerace, Lumelsky, and Lowe disclose a method as in claim 1 above, and further discloses that the step of maintaining a communication session between a user and portal comprises establishing a connection between a web device and the portal (col 3, lines 54-57).

Claim 15: Gerace, Lumelsky, and Lowe disclose a method as in claim 1 above, and Gerace further discloses that the step of maintaining a communication session between a user and portal comprises communicating with a personal computer interface (col 2, lines 1-15; col 4, lines 1-10).

Claim 29, 32-36, 40, 41, 42, 43, 46, 47, 48: Gerace discloses maintaining an Internet-related communication session between a user and a portal (col 4, lines 1-5) and during the communication session periodically selecting and playing advertisements automatically based on any one of user constraints and sales criteria (col 2, lines 35-42; col 5, lines 8-25).

Gerace discloses tracking all aspects of user navigation of a portal (col 2, lines 15-42). Gerace discloses the use of sound (col 1, lines 30-35), audio forecasts (col 8, lines 63-65), and other sound and audio applications as referenced above. Gerace further discloses tracking the audio capabilities of a user's system (col 6, lines 17-21). Gerace further discloses the use of a variety of input means (col 4, lines 6-11), and that the method can be operated anywhere the is Internet accessible (col 3, lines 54-58).

Gerace does not explicitly disclose the utilization of voice navigation.

However, Lumelsky discloses a wireless system that provides voice or audio broadcasts of all types, that is voice activated, voice controlled, voice navigated, features hands free operation, hands free user voice recording, and user voice message delivering to other users, and voice navigation access to Internet files from Web sites (col 5, line 50-col 6, line 5; Abstract).

Lumelsky further disclose creating a user profile and updating that profile with topics of user interest (col 20, lines 6-24; col 8, lines 50-55).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Lumelsky's voice navigation to Gerace's targeted content over the Internet. One would have been motivated to do this because hands free voice input and navigation allows Gerace's method to reach a wider spectrum of possible uses.

Gerace further discloses playing an audio message identifying a product or service to be advertised, including a query as to whether the user would like to hear more information regarding the product or service, identifying a response of the user (col 2, lines 35-42; col 3, lines 4-10; col 8, lines 63-65; col 25, lines 15-17), selectively playing an audio advertisement for the product or service, if the response was affirmative (col 2, lines 40-42).

Gerace further discloses the step of selectively playing an audio advertisement which comprises defining a set of advertisements, assigning weights to each member of the set of advertisements, and selecting a member of the set of advertisements based on the assigned weight (col 14, line 65-col 15, line 12).

Gerace further discloses selectively playing advertisements (col 2, lines 24-30) and playing advertisements depending upon the user's system (col 5, lines 19-25; col 6, lines 13-21) and playing the advertisement deemed of highest interest to the user (col 15, lines 25-45) and the

advertiser paying for advertisements in different scales depending upon the receptions or actions taken upon an advertisement (col 12, lines 17-21).

Gerace does not explicitly disclose selectively disabling a user's ability to stop or interrupt an advertisement from being played depending upon the advertisement being played.

Lowe discloses selectively disabling a user's ability to stop or interrupt an advertisement from being played (col 3, lines 40-60; col 12, lines 25-61; col 7, lines 41-50) depending upon a variety of controllable input or advertising related information or information related to the advertisement being played (col 12, lines 55-59; col 12, lines 25-29; Fig. 1, item 111). Lowe further discloses recording which advertisements the user has seen (col 3, lines 47-50) and targeting the user for content including advertising and that a captive audience can be provided (col 2, lines 34-45; col 6, lines 15-23). Lowe further discloses targeted advertisements and targeted content depending upon the reference information about a user (col 4, lines 15-24) and different types of advertisements (col 5, lines 50-60). Lowe discloses the utilization of voice data for controlling an information system and the receiving of information including audio or video and advertisements particular to a user (col 9, lines 5-20).

Therefore, because Lowe discloses a lock out unit that can receive a variety of input and Lowe discloses targeting the users with a variety of advertising and Lowe discloses that the lock out unit can be activated or deactivated based on a variety of input and advertising related information, it would have been obvious to Lowe that the lock out unit can be activated based upon the advertising being played. Lowe would have been motivated to do this because some advertisements may be deemed more important for the user to hear or receive.

Therefore, it would have been obvious to one having ordinary skill in the art at the time

the invention was made to add Lowe's selectively disabling a user's ability to stop an

advertisement to Gerace's selectively playing advertisements and playing the advertisements

deemed of highest interest to the user. One would have been motivated to do this because some

advertisements may be deemed more important for the user to hear or receive.

Claims 10, 30, 37 and 45: Gerace, Lumelsky, and Lowe disclose a system as in claims 7,

32, and 42, and Gerace further discloses providing billing information on advertisements used

based on a per use rate of charge (col 12, line 56-col 13, line 10).

Claims 11, 14, 17, 19, 31, and 49: Gerace, Lumelsky, and Lowe disclose a method as in

claims 2, 1, 16, 23, and 46. Gerace further discloses the user making selections and purchases

(col 2, lines 35-42). Gerace further discloses the user of audio and radio broadcasts (col 3, lines

4-10; col 8, lines 63-65; col 25, lines 15-17). Gerace further discloses making the use of the

invention more appealing to the user (col 2, lines 47-54). Gerace further discloses warning and

notice messages (col 33, lines 32-35).

Gerace does not explicitly disclose identifying a response comprises playing a

confirmation audio message to confirm the response.

Gerace does not explicitly that the communication session comprises a voice interface.

However, Lumelsky discloses identifying a response comprises playing a confirmation

audio message to confirm the response (col 7, lines 15-18).

Lumelsky further discloses that the step of maintaining a communication session between

a user and portal comprises communicating with a voice interface (col 8, line 66-col 9, line 1).

Therefore, it would have been obvious to one having ordinary skill in the art at the time

the invention was made to add Lumelsky's voice recognition to Gerace's targeted content. One

would have been motivated to do this because voice recognition is a standard method of user

input and allows Gerace's user's further convenience.

Claims 12, 38, 39, 50: Gerace , Lumelsky, and Lowe disclose a method as in claims 1,

32, 46. Gerace further discloses that the communication session between a user and portal can

be over an Internet capable medium (col 3, lines 54-57).

Gerace does not explicitly disclose the step of maintaining a communication session

between a user and portal comprises establishing a connection between a wireless application

protocol device and the portal.

However, Lumelsky discloses maintaining a communication session between a user and

portal comprises establishing a connection between a wireless application protocol device and

the portal (col 1, lines 6-9 and col 6, lines 57-65).

Therefore, it would have been obvious to one having ordinary skill in the art at the time

the invention was made to add Lumelsky's wireless device to Gerace's targeted content over the

Internet. One would have been motivated to do this because wireless devices interacting with the

Internet is an industry standard and allows Gerace's method to reach a wider spectrum of user

devices.

Claim 51: Gerace, Lumelsky, and Lowe disclose a program code as in clam 46 above. Gerace

discloses that the program code operates audio content (col 3, lines 4-10; col 8, lines 63-65; col 25, lines

15-17). Gerace further discloses collecting and maintaining user telephone information and general

telephone related information (col 1, lines 10-14; col 6, lines 1-5; col 9, lines 30-33).

Gerace does not explicitly disclose that the computer readable program code for transforming

Internet-based information into speech or vocal transmission utilizes the telephone.

However, Lumelsky discloses a system with program code for an interactive radio system that

utilizes the telephone (col 21, lines 53-62 and col 23, line 4).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the

invention was made to add Lumelsky's voice recognition with telephone utilization to Gerace's targeted

information.

One would have been motivated to do this because so that Gerace can better utilize the telephone

information that he has already collected.

Response to Arguments

5.   Applicant's arguments with respect to claim 1-51 have been considered but are moot in

view of the new ground(s) of rejection. Particularly note the rejection of the Independent claims

above.

Examiner notes that while specific references were made to the prior art, it is actually

also the prior art in its entirety that is being referred to.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Arthur Duran whose telephone number is (703)305-4687. The
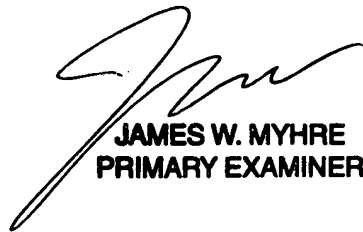
examiner can normally be reached on Mon- Fri, 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Eric Stamber can be reached on (703)305-8469. The fax phone number for the

organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is (703)308-1113.

10/21/03

JAMES W. MYHRE
PRIMARY EXAMINER